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**EXECUTIVE SECRETARIAT
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Remarks

STAT

Executive Secretary
18 DEC 85

Date

3637 (10-81)

THE WHITE HOUSE
WASHINGTON

65- 4667/1

CABINET AFFAIRS STAFFING MEMORANDUM

Date: 12/16/85 Number: 317038CA Due By: _____

Subject: Cabinet Council Minutes

ALL CABINET MEMBERS	Action	FYI	Action	FYI
Vice President	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
State	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Chief of Staff	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Executive Secretary for:				
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EPC				
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REMARKS:

Attached for your information are the minutes of the following Economic Policy Council Meetings:

November 22, 1985
November 26, 1985

RETURN TO:

Alfred H. Kingon
 Cabinet Secretary
 456-2823
 (Ground Floor, West Wing)

Don Clarey
 Rick Davis
 Ed Stucky

DCI
EXEC
REG

Associate Director

Cabinet Affairs

L-3003

MINUTES
ECONOMIC POLICY COUNCIL

November 22, 1985
10:30 a.m.
Roosevelt Room

Attendees: Messrs. Baker, Block, Baldrige, Brock, Miller, Yeutter, Sprinkel, Whitehead, Wright, Svahn, Kingon, McAllister, Brashear, Danzansky, Hoffman, Khedouri, McMinn, Mulford, Smart, Stucky, and Woods, and Ms. Risque.

1. Semiconductors

Ambassador Yeutter stated that the Japanese had made an offer to open their semiconductor market to Ambassador Smith and Clyde Prestowitz on a recent trip to Japan. He expressed his concern that initiating an antidumping case against the Japanese 256K RAMs, as suggested by the Trade Strike Force and the Economic Policy Council, at this time might cause the Japanese to retract their offer. Secretary Baldrige expressed some skepticism about the Japanese offer, suggesting it was timed to affect the Administration's decision regarding initiating an antidumping case. The Council agreed to send its recommendation regarding semiconductor dumping to the President and to review the timing of initiating such a case, if the President assents, at a later meeting.

2. GATT Contracting Parties Meeting

Ambassador Yeutter stated that the GATT Contracting Parties are scheduled to meet November 25 to discuss the possibility of a new GATT round. He noted that Brazil, India, and several other developing countries, and France are opposed to including services within the coverage of a new round. He reviewed the objectives for the GATT Contracting Parties meeting developed by the TPRG:

1. Establishing a Preparatory Committee (PrepCom) to determine the negotiating agenda and structure for a new round at the meeting;
2. Resisting any attempt to create a separate PrepCom for trade in services; and
3. Opposing any attempt to attach preconditions to establishing the PrepCom.

The Council agreed that if the U.S. representatives of the Contracting Parties were unable to achieve our objectives, the

Minutes
Economic Policy Council
November 22, 1985
Page two

Economic Policy Council would review the Administration's response and alternative course of action.

3. Section 301 Deadlines

Ambassador Yeutter stated that on September 7, when the President announced his decision to initiate several Section 301 investigations, he also announced that he was accelerating several existing Section 301 investigations by establishing a December 1 deadline for a satisfactory resolution of cases against Japanese leather and leather footwear quotas and EC canned fruit subsidies.

He stated that the TPRG estimates that the Japanese leather and leather footwear quotas impose damages of roughly \$257 million a year on the U.S. He stated that the TPRG has recommended that a prohibitive tariff of 40 percent be imposed on \$277 million worth of Japanese exports to the U.S. He noted that the list of products developed by the TPRG included optical fibers, which are important intermediate technological products. He suggested, however, that plastic optical fiber products not be included, thereby alleviating concerns about harming ourselves more than the Japanese. He also pointed out that if the discussions regarding the Section 301 case fail, the subsequent retaliation will be the first time the U.S. has done so against Japan.

Mr. Whitehead questioned whether the list of products which included lawn mowers and toy products, reflected the best mix of products. He suggested that the U.S. should use these opportunities also to target Japanese products and markets, to which U.S. industries have inadequate access.

Decision

The Council unanimously agreed to recommend to the President that he impose a prohibitive tariff against the \$277 million in products recommended by the TPRG if the discussions regarding the Japanese leather and leather footwear quotas are not satisfactorily resolved.

EC Canned Fruit

Ambassador Yeutter stated that the TPRG had developed several options for the Council's consideration on possible retaliation against EC canned fruit subsidies, if the Section 301 case is not satisfactorily resolved:

1. Imposing prohibitive tariffs on canned fruit from the EC (including Spain as of January 1);

Minutes
Economic Policy Council
November 22, 1985
Page three

2. Imposing prohibitive tariffs on canned fruit from the EC-10 (excluding Spain) with a 1985 value of \$8.7 million and other products such as fresh apples and wheat gluten;
3. Imposing prohibitive tariffs on canned fruit from the EC-10; and
- 3a. Imposing prohibitive tariffs on canned fruit from the EC until such time as Spain and Portugal benefit from the canned fruit subsidy program, at which time the tariffs will be applied to the EC-12.

Ambassador Yeutter stated that the key question is the treatment of Spain under the retaliation. Several members of the TPRG had expressed concern that immediately targeting Spain would unnecessarily aggravate relations with Spain, at a time critical for Spanish participation in NATO. Secretaries Baker and Baldrige and Mr. Whitehead endorsed option 3a.

Decision

The Council unanimously agreed to recommend to the President that he impose a prohibitive tariff on canned fruit from the EC until such time as Spain and Portugal benefit from the canned fruit subsidy, at which time the tariff will be applied to the EC-12. The Council also agreed to monitor shipments of canned fruit from Spain and Portugal to prevent evasion of the tariff through transshipments through Spain or Portugal.

**EXECUTIVE SECRETARIAT
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Date

Remarks

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Executive Secretary
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Date

3637 (10-81)

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THE WHITE HOUSE
WASHINGTON

CABINET AFFAIRS STAFFING MEMORANDUM

Date: 11/21/85 Number: 317027CA Due By:

Subject: ECONOMIC POLICY COUNCIL MEETING -- November 22, 1985

10:30 A.M. -- Roosevelt Room

ALL CABINET MEMBERS	Action	FYI	Action	FYI
Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Treasury	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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REMARKS:

The Economic Policy Council will meet on Friday, November 22, at 10:30 A.M. in the Roosevelt Room.

The agenda and background papers are attached.

RETURN TO:

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| <input checked="" type="checkbox"/> Alfred H. Kingon | <input type="checkbox"/> Don Clarey |
| Cabinet Secretary | <input type="checkbox"/> Rick Davis |
| 456-2823 | <input type="checkbox"/> Ed Stucky |
| (Ground Floor, West Wing) | |

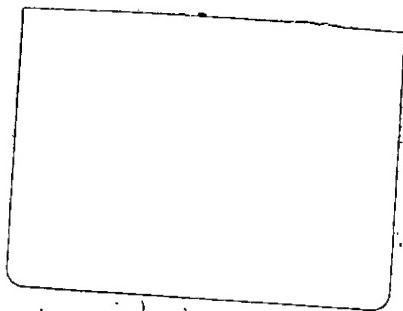
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THE WHITE HOUSE

WASHINGTON

November 21, 1985



MEMORANDUM FOR THE ECONOMIC POLICY COUNCIL

FROM: EUGENE J. McALLISTER *EJ*

SUBJECT: Agenda and Papers for the November 22 Meeting

The agenda and papers for the November 22 meeting of the Economic Policy Council are attached. The meeting is scheduled for 10:30 a.m. in the Roosevelt Room.

The Council is scheduled to consider two agenda items: GATT Contracting Parties meeting and Section 301 deadlines. The Trade Policy Review Group (TPRG) has prepared a briefing paper outlining the objectives the U.S. delegation will seek at the annual GATT Contracting Parties meeting on November 25-29. These objectives include: establishing a Preparatory Committee at this meeting; resisting any attempt to create a separate PrepCom for the issue of trade in services; and opposing any attempt to attach preconditions to establishing the PrepCom. A paper prepared by the TPRG outlining the objectives and noting what the U.S. delegation will state if the GATT members fail to agree to establish a single PrepCom without preconditions is attached.

The second agenda item is Section 301 deadlines. The TPRG has prepared two options papers regarding Section 301 cases on EC canned fruit and Japanese leather and leather footwear. The U.S. accelerated the deadline in these two cases to December 1. The Council will consider what actions the U.S. should take on December 1 if these cases are not settled by then. Two papers outlining the background, assessment of damage from these unfair trade practices, the legal authority to retaliate, and the options in each case are attached.

Attachments

THE WHITE HOUSE
WASHINGTON

ECONOMIC POLICY COUNCIL

November 22, 1985

10:30 a.m.

Roosevelt Room

AGENDA

1. GATT Contracting Parties Meeting
2. Section 301 Deadlines (EC Canned Fruit, Japan Leather and Leather Footwear

OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20506

November 20, 1985

MEMORANDUM FOR THE ECONOMIC POLICY COUNCIL

FROM: THE TRADE POLICY REVIEW GROUP
SUBJECT: GATT Contracting Parties Meeting, November 25-29

Overall Objectives

The GATT Contracting Parties (CPs), at their annual meeting, November 25-29, will consider whether to establish a Preparatory Committee (PrepCom) to determine the negotiating agenda and structure for a new round of multilateral trade negotiations. At its November 14 meeting, the Trade Policy Review Group agreed to recommend that the U.S. delegation to the CP meeting pursue the following objectives:

- 1) Establish a PrepCom at this meeting, preferably through consensual decision-making or -- as a last resort -- by a rollcall vote of the CP's.
- 2) Resist any attempt to create a separate PrepCom for the trade in services issue; and
- 3) Oppose any attempt to attach preconditions to establishing the PrepCom.

If we fail to establish a single PrepCom without preconditions at this meeting, the U.S. should announce its intention to begin to implement the President's policy, contained in his September 23 speech, that we will explore regional and bilateral trade agreements with other nations. The delegation would return to the EPC for further guidance on possible additional actions to be taken, including punitive actions against countries that have obstructed progress towards new negotiations.

Establishment of a PrepCom by the CP's Now

Over the past eighteen months, we have tried to persuade our trading partners that it is in our mutual interest to repair and restore the trading system. In our view, this can only be done through a new round of negotiations. We have argued that the

GATT work program, agreed to in 1982, has reached the point where further substantive progress can only be made through new negotiations. It is time that GATT members move beyond analyzing trade problems and start negotiating solutions. Efforts to launch a new round will send a strong signal that countries are committed to resisting protectionism and liberalizing trade.

Under an optimistic scenario, a PrepCom could begin as early as mid-January and be completed by mid-April, prior to the Economic Summit in Tokyo. Negotiations could start as early as mid-summer.

A Single PrepCom Should Be Established

The U.S. remains willing to consider all issues (within reasons) of interest to other GATT members in the course of new negotiations. In particular, we have expressed support for inclusion of issues of importance to developing countries, such as tropical products, and special and differential treatment. In return, we expect GATT members to respect our desire to address such pressing trade issues as services, intellectual property and investment in the new negotiations. The PrepCom will sort out the differences and determine the negotiating agenda and organizational details of the new negotiations. We prefer to have one PrepCom consider all trade issues before the GATT as a whole. We reject the suggestion by certain developing countries that a separate Prepcom should be established to deal with the trade in services issue. In our view, this idea will only result in bifurcating resources and delaying preparations for the negotiations. We simply cannot afford to waste time, energy, and resources in getting preparations underway for new negotiations.

No Preconditions Should Be Attached

Brazil, India, Egypt, Argentina, Yugoslavia and Pakistan have indicated that their support for establishing a PrepCom is contingent on developed countries making concessions now, before the negotiations start, on key issues of interest to them. The most difficult is the issue of standstill/rollback, a political commitment not to take trade restrictive actions which we accepted as part of the 1982 GATT Ministerial Declaration (paragraph 7(1)).

Brazil, on behalf of the other countries, has proposed that the developed countries commit themselves in advance of the preparatory process not to take any actions -- either legislative or executive -- that would restrict trade. While this proposal is clearly unacceptable to developed countries, a number of moderate LDCs support inclusion of a standstill pledge, arguing that action by developed countries could improve the climate for negotiations.

We concur that the issue of standstill, and the corresponding rollback of protectionist measures, is an important subject that should be addressed by the PrepCom. However, as a strategic matter, it is unacceptable to "pay" developing countries to allow the largely procedural decision on establishing a PrepCom. Moreover, we cannot accept any formulation that would limit our ability to take GATT consistent actions or actions under U.S. law, such as Section 201 or 301, or to pursue the resolution of disputes under GATT Articles. We should be in a position to accept a commitment not to take GATT inconsistent actions, as stated in paragraph 7(1) of the 1982 GATT Ministerial Declaration.

An additional precondition set by the hardline developing countries is to circumscribe the work of the PrepCom so that key issues of interest to the USG, and of particular concern to key private sector advisors (i.e., services, intellectual property and investment), would not be included in the negotiations. The U.S. will not accept any preconditions to the establishment of the PrepCom. All issues should be taken up in that body and a structure created for negotiations to resolve trade problems and strengthen and improve GATT rules.

If We Fail, What Then?

Brazil and India are the most vocal opponents of the new round and have obstructed the GATT consensus-building process since 1982. The vast majority of the 90 GATT members, who account for over 90 percent of GATT country trade, are becoming increasingly frustrated with this obstruction. Should the GATT members fail to agree to establish a single PrepCom without preconditions, then the U.S. delegation should express its dismay and state that we have no choice but to explore possibilities for achieving our objectives, either bilaterally or plurilaterally in accordance with the President's instructions. The U.S. delegation should return to the EPC for further guidance on steps to liberalize trade on a bilateral or plurilateral basis and a response to those countries that have obstructed our efforts to initiate negotiations.

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

November 21, 1985

To: Economic Policy Council
From: Ambassador Clayton Yeutter *CLY*
Subject: Presidential Action Under Section 301 on Canned Fruit,
Leather and Leather Footwear

Attached are TPRG recommendations on actions the President should take to re-balance the level of trade concessions between the U.S. and the European Community in connection with our canned fruit dispute, and between the U.S. and Japan in connection with our leather/leather footwear dispute. As you will recall, these are two of our first tranche of Section 301 cases -- the ones where we accelerated the timetable by applying December 1 deadlines.

We have active negotiations underway in both cases, but we need to determine the actions we will take on December 1 if they are not settled by then. My personal judgment is that we have about a 50/50 chance of settling the canned fruit case to our satisfaction. Because of the sensitivities of the leather/leather footwear case to the Japanese, it is unlikely that it will be settled by December 1.

Attachments

SECTION 301 JAPAN LEATHER AND LEATHER FOOTWEAR RETALIATION

Issue

In accordance with the President's announcement of September 7, we need to decide on the retaliatory measures to be taken if we are unable to resolve the Japan leather and leather footwear cases by December 1. This paper provides the TPRG's recommendations for retaliation if such a settlement is not achieved.

Background

In his radio address of September 7, the President announced that he would take countermeasures against Japan pursuant to his authority under Section 301, if we were unable to reach a satisfactory settlement of the Japan leather and leather footwear cases by December 1. The President's announcement followed more than eight years of efforts to resolve these disputes through GATT procedures and bilateral negotiations. The leather and leather footwear cases are based on the allegation that Japan's leather and leather footwear quotas are inconsistent with Article XI of the GATT and burden and restrict U.S. commerce by keeping U.S. exporters out of the Japanese market. In May of 1984 the GATT Council adopted a GATT Panel Report which found the leather quota to be inconsistent with GATT Article XI and recommended that Japan take immediate steps to eliminate the quota. Although there has been no GATT Panel finding on the leather footwear quota, it is identical to the leather quota and we therefore believe is just as clearly inconsistent with Article XI as the leather quota.

Since September 7, we have held several bilateral discussions but as of this date, have not reached a satisfactory settlement. Japan has refused to remove the quotas on an MFN basis and to agree to provide meaningful access to U.S. leather and leather footwear exporters. We should, therefore, be prepared to retaliate since it is unlikely the Japanese will come forward with a satisfactory offer by December 1.

Assessment of Damage From Japanese Practice

The GATT panel on the leather quota ruled that the leather quota caused actual nullification and impairment of Japanese concessions on leather. Thus the GATT panel finding clearly supports our claim of trade damage to our leather exports to Japan. However, there is no GATT panel finding to support our damage claim with respect to our leather footwear exports. Nonetheless, the analysis developed by the Section 301 Committee indicates that the total value of trade damage to U.S. leather

and leather footwear exports to Japan is approximately \$257 million annually.

Legal Authority to Retaliate

Section 301 provides ample authority to retaliate against imports from Japan through action which the President determines appropriate to enforce U.S. rights or to obtain the removal of the offending Japanese practice. The President's authority under Section 301 is not limited to action corresponding to the degree of damage caused by the unjustifiable Japanese practice. However, in cases involving impairment of tariff concessions such as leather and leather footwear, countermeasures under GATT would normally be limited to the damage suffered.

Recommendation

The TPRG recommends unanimously that the President proclaim a prohibitive tariff of 40 percent under column 2 of the TSUS to be applied in addition to the current column 1 tariff rate on the following Japanese imports:

Option #1: Option #1 includes optical fibers in the retaliation list. We have attached copies of tables giving a breakdown of U.S. imports, as well as a table providing estimates of the total world market and the U.S. share of that market.

Leather products	\$ 37 million
Lawn mowers	\$ 43 million
Air conditioners	\$ 18 million
Spectacles and frames	\$ 58 million
Fishing reels	\$ 16 million
*Optical Fibers	\$ 11 million
Toys	<u>\$ 94 million</u>
TOTAL	\$277 million

Pros:

- List includes a high tech item.
- The U.S. has been effectively shut out of the optical fiber market. Including this item on the list may promote Japanese U.S. market access.
- There are both domestic and foreign alternative sources of supply since Japan only accounts for 21% of total U.S. imports. Canada, Germany, the UK and Israel also export optical fibers to the U.S.

Cons:

- May reduce availability of high quality plastic optical fiber.
- Inappropriate to choose items currently under negotiation in MOSS talks.

Option #2: Option #2 excludes optical fibers.

Leather products	\$ 37 million
Lawn mowers	\$ 43 million
Air conditioners	\$ 18 million
Spectacles and frames	\$ 58 million
Fishing reels	\$ 16 million
Toys	<u>\$ 94 million</u>
TOTAL	\$266 million

TABLE 1.

U.S. Imports of Optical Fiber in
Bundles, Cable, or Otherwise, TSUSA No. 707.9010

September 1985

<u>Country of Origin</u>	<u>Quantity (1,000 fm)</u>	<u>Customs Value (\$1,000)</u>	<u>Avg. Unit Value (\$/fm)</u>	<u>Percentage of Total</u>
Canada	295	1,342	4.55	3.01
Canada (807)	3,636	5,924	1.63	37.11
U.K.	2,678	1,073	0.40	27.33
U.K. (807)	-	-	-	-
F.R.G.	558	197	0.35	5.70
F.R.G. (807)	29	28	0.97	0.30
Israel (GSP)	402	297	0.74	4.10
Japan	2,061	890	0.43	21.03
Japan (807)	107	568	5.31	1.09
Other	32	203	6.34	0.33
TOTAL	9,798	10,522	1.07	100.00

January - September 1985

<u>Country of Origin</u>	<u>Quantity (1,000 fm)</u>	<u>Customs Value (\$1,000)</u>	<u>Avg. Unit Value (\$/fm)</u>	<u>Percentage of Total</u>
Canada	5,632	18,787	3.34	13.77
Canada (807)	23,391	25,892	1.11	57.18
U.K.	2,730	1,466	0.54	6.67
U.K. (807)	14	44	3.14	0.03
F.R.G.	693	485	0.70	1.69
F.R.G. (807)	2,093	1,221	0.58	5.12
Israel (GSP)	942	709	0.75	2.30
Japan	5,112	4,156	0.81	12.50
Japan (807)	267	1,880	7.04	0.65
Other	34	302	8.88	0.08
TOTAL	40,908	54,942	1.34	100.00

Note: Totals may not add due to independent rounding. Calculations done on the basis of unrounded numbers.

Source: Official Statistics of the U.S. Department of Commerce.

TABLE 2U.S. Imports of Optical Fiber NSPF,
Not Mounted, TSUSA No. 707.9030

September 1985

	<u>Quantity (1,000 fm)</u>	<u>Customs Value (\$1,000)</u>	<u>Avg. Unit Value (\$/fm)</u>	<u>Percentage of Total Import Value</u>
Country of Origin				
Canada	N.A.	16	N.A.	5.10
Canada (807)	N.A.	-	N.A.	-
Sweden	N.A.	-	N.A.	-
U.K.	N.A.	1	N.A.	0.32
France	N.A.	102	N.A.	32.48
F.R.G.	N.A.	16	N.A.	5.10
F.R.G. (807)	N.A.	-	N.A.	-
Switzerland	N.A.	1	N.A.	0.32
Japan	N.A.	95	N.A.	30.25
Other*	N.A.	83	N.A.	26.43
TOTAL	N.A.	314	N.A.	100.00

January - September 1985

	<u>Quantity (1,000 fm)</u>	<u>Customs Value (\$1,000)</u>	<u>Avg. Unit Value (\$/fm)</u>	<u>Percentage of Total Import Value</u>
Country of Origin				
Canada	N.A.	756	N.A.	11.15
Canada (807)	N.A.	27	N.A.	0.40
Sweden	N.A.	128	N.A.	1.89
U.K.	N.A.	2,783	N.A.	41.06
France	N.A.	234	N.A.	3.45
F.R.G.	N.A.	308	N.A.	4.54
F.R.G. (807)	N.A.	195	n.a.	2.88
Switzerland	N.A.	143	N.A.	2.11
Japan	N.A.	1,930	N.A.	28.47
Other	N.A.	274	N.A.	4.04
TOTAL	N.A.	6,778	N.A.	100.00

* Imports from Italy and Korea.

N.A. = Not available. Quantities are not reported.

Note: Totals may not add due to independent rounding. Calculations done on the basis of unrounded numbers.

Source: Official Statistics of the U.S. Department of Commerce.

I. Definition of the Fiber Optics Industry

Fiber optics is based on the ability to transmit information by light impulses through an optical glass fiber. It is primarily used in replacing standard coaxial cable (copper wire cable) telephone lines with glass fiber cables. It is much cheaper than coaxial cable since the same amount of information can be transmitted in a cable about one-fourth the diameter and one-eighth the weight of copper wire cable of a similar capacity. Wound into cable, the glass fibers (for example, in a particular configuration) could carry up to 80,000 simultaneous telephone calls using light rather than electricity. This means that just one strand of fiber can transmit the entire contents of the Encyclopaedia Britannica, about 43 million words, in 5 seconds. The technology producing high-purity optical fiber has advanced to such an extent that today's leading fiber would still be transparent 17 miles long.

The overall world market for fiber optic systems (including the glass fiber cable and the electronic components attached to the cable) was \$625 million in 1983 and is expected to top \$1 billion in 1985 as we can see in Table 1.*

Table 1

FIBER OPTICS MARKET ESTIMATES
(\$ MILLION)
(Includes fiber, cable, and electronic components)

	<u>U.S.</u>	<u>World</u>
1981	\$190	\$290
1982	\$290	\$450
1983	\$400	\$625
1984	\$560	\$900
1985	\$725	\$1,225
1986	\$880	\$1,600
1987	\$1,135	\$2,110
1988	\$1,450	\$2,670
1989	\$1,650	\$3,200

Source: Office of Telecommunications,
International Trade Administration,
U.S. Department of Commerce

*The paucity and the apparent understatement of official statistics make it difficult to evaluate many aspects of the industry that are important to understanding it. Therefore, estimates must be used. In an industry

SECTION 301 CANNED FRUIT RETALIATION

Issue

In accordance with the President's announcement of September 7, we need to decide on the retaliatory measures to be taken if we are unable to resolve the canned fruit dispute with the EC by December 1. This paper provides options for retaliation if such a settlement is not achieved.

Background

In his radio address of September 7, the President announced that he was directing that "a list be prepared of countermeasures which will be taken" if the canned fruit dispute with the EC is not resolved by December 1. The President's announcement followed more than three years of efforts to resolve this dispute through GATT procedures and bilateral negotiations. The GATT panel ruled in our favor in July of 1984. Since September 7, we have held several rounds of additional bilateral discussions but, as of this writing, have not achieved a satisfactory result. The EC has continued to block adoption of the panel report. We thus need to have retaliatory measures prepared if last-minute negotiations fail.

Assessment of Damage from the EC Practice

The GATT panel ruled that the subsidies in question impaired EC tariff concessions on canned peaches, pears and fruit cocktail. Thus the favorable panel ruling concerns effects on U.S. access to the EC market. Accordingly, USDA has measured the damage from the practices in terms of lost sales to the EC market. Analysis by USTR and USDA indicates that the value of the trade damage to the United States is approximately \$10 million annually.

Legal Authority to Retaliate

Section 301 provides ample authority to retaliate against imports from the EC through action which the President determines appropriate to enforce U.S. rights or to obtain removal of the offending EC practice. The President's authority under Section 301 is not limited to action corresponding to the degree of damage caused by the EC practice. However, in cases involving impairment of a tariff concession, countermeasures under GATT rules would normally be limited to the damages.

U.S. Industry Position

The U.S. industry supports option 1 below. The industry believes any re-balancing of concessions should attempt, to the extent possible, to redress the harm they have suffered. Moreover, the industry believes that the \$10 million estimated trade damage is extremely conservative.

Options:

The following are retaliatory options:

1. Impose prohibitive tariffs on canned fruit from the EC (including Spain as of January 1) (Value: \$9.3 million);

Pros:

- Approximately matches damage assessment;
- Supported by the domestic industry, whose views will be most important in public assessment of the President's action;
- Averts the problem of trade diversion that could arise if Spain is not included in the retaliation;

Cons:

- Penalizes Spain most heavily, which has not benefitted from EC subsidies and won't get EC subsidies under the transition rules for four to five years;

2. Impose prohibitive tariffs on canned fruit from EC-10 (value \$3.6 million), fresh apples (value \$4.7 million), wheat gluten (value \$1.3 million)

Pros:

- Does not penalize Spain which has not benefitted from EC subsidies;
- Reduces appearance in the EC that the U.S. is targeting poor Mediterranean countries exclusively; restriction on apples would affect France and wheat gluten, West Germany.
- May increase EC interest in settling canned fruit dispute.

Cons:

- By leaving out Spain, canned fruit distribution patterns within EC-12 could be revised, resulting in market sharing, i.e., Spain would ship less to EC-10 (allowing EC-10 producers to sell more in their own market because Spain stays out) and would increase shipments to U.S. in substitution for EC-10. The net result would be no damage to EC-10 or EC-12.

3. Impose prohibitive tariffs on canned fruit from the EC-10 (value \$3.6 million)

Pros:

- Does not penalize Spain which has not benefitted from EC subsidies;
- Reduces risk of counter-retaliation;

Cons:

- Does not match damage assessments; credibility of President's trade initiative would be called into question;
- By leaving out Spain, canned fruit distribution patterns within EC-12 could be revised, resulting in market sharing, i.e., Spain would ship less to EC-10 (allowing EC-10 producers to sell more in their own market because Spain stays out) and would increase shipments to U.S. in substitution for EC-10. The net result would be no damage to EC-10 or EC-12.

3A. Impose prohibitive tariffs on canned fruit from the EC-10 until such time as Spain and Portugal benefit from the canned fruit subsidy program, at which time the tariffs will be applied to the EC-12.

Pros:

- Avoids penalizing Spain until such time as Spain benefits from EC subsidies;

Cons:

- Will not match damage assessment immediately;

- Permits EC-10, through market sharing arrangements with Spain, to avoid any damage for EC-10 until such time as tariffs apply to Spain.